

1 COOLEY GODWARD KRONISH LLP
 2 JOHN W. CRITTENDEN (101634) (jcrittenden@cooley.com)
 3 KATHLEEN E. TREIBER (232353) (ktreiber@cooley.com)
 4 101 California Street
 5 5th Floor
 6 San Francisco, CA 94111-5800
 Telephone: (415) 693-2000
 Facsimile: (415) 693-2222
 7
 Attorneys for Plaintiff
 8 EBAY INC.

9
 10
 11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13
 14 EBAY INC., a Delaware corporation,

15 Case No. C 08-01459 MEJ

16 Plaintiff,

**STIPULATION FOR FINAL JUDGMENT
 AND PERMANENT INJUNCTION, AND
 FINAL JUDGMENT AND PERMANENT
 JUDGMENT THEREON**

17
 18 v.
 19 TELEBAY LLC, a Delaware limited liability
 company,

20
 21 Defendant.

22
 23 The parties to this action, plaintiff eBay Inc. ("eBay") and defendant Telebay LLC
 24 ("Defendant"), by their authorized signatures and/or the signatures of their counsel, do stipulate
 25 and agree as follows:

26
RECITALS

27
 28 1. Defendant operates a Web site for purposes of promoting telecommunications
 goods and services under the name and mark TELEBAY and at the URL address
<http://www.telebay.com>. Brad Edwards is the CEO of Defendant and is authorized to execute
 this stipulation on its behalf.

29
 30 2. eBay advised Defendant that it objected to, among other things, its use of the
 "Telebay" name, corporate name and trademark, as well as domain names containing the

1 TELEBAY mark, as violations of eBay's rights in various federally-registered trademarks,
 2 including the "eBay" word mark and logo.

3 3. On March 14, 2008, eBay filed this action against Defendant, seeking preliminary
 4 and permanent injunctive relief, an accounting of all revenues and profits, costs and attorneys'
 5 fees, and an order that the Registrar of the TELEBAY.COM domain name cancel the registration,
 6 alleging (1) federal trademark infringement under 15 U.S.C. § 1114, (2) federal trademark
 7 dilution under 15 U.S.C. § 1125, (3) false designation of origin under 15 U.S.C. § 1125, (4)
 8 common law trademark infringement, (5) common law unfair competition, (6) trademark
 9 infringement under Cal. Bus. & Prof. Code § 14245, (7) trademark dilution under Cal. Bus. &
 10 Prof. Code § 14247, and (8) unfair competition under Cal. Bus. & Prof. Code §§ 17200 *et seq.*
 11 (the "Action").

12 4. The parties have discussed their dispute and desire to resolve the Action amicably
 13 and without any further involvement from this Court, and hereby enter into this stipulation in
 14 accordance with a separate settlement agreement between the parties (the "Agreement").

15 5. Defendant acknowledges eBay's rights in its trademarks, including the federally-
 16 registered "eBay" word mark and logo, and has agreed to permanently cease and desist from
 17 using the TELEBAY name, mark and corporate name and any domain names containing the
 18 TELEBAY mark. In consideration for Defendant's actions, promises, and agreements as stated in
 19 this Stipulation, and provided that Defendant is in full compliance with the terms of this
 20 stipulation and the parties' Agreement, eBay agrees to allow Defendant a reasonable period of
 21 time in which to transition to a new name and mark as follows:

22 (a) Telebay shall immediately transfer the domain names telebay.com,
 23 telebay.net and telebaymall.com to eBay;

24 (b) Except as set forth in paragraph 5(c), Defendant shall permanently cease
 25 use of the TELEBAY name, mark and corporate name by September 25, 2008;

26 (c) As long as Defendant is in compliance with the Agreement, Defendant may
 27 redirect users from the telebay.com, telebay.net, and telebaymall.com URLs to a newly-named,
 28 noninfringing Web site until March 25, 2009.

6. Defendant agrees not to sell, transfer, or make any commercial or other use of the domain name intelebay.com, and to allow its registration for that domain to expire in the ordinary course.

7. The parties concede that this Court has subject matter jurisdiction of the Action and that, by agreeing to a judgment in this matter, they voluntarily consent to this Court exercising personal jurisdiction over them.

8. The parties agree that the terms herein constitute a full and fair settlement of all claims raised resulting from known facts in this matter and should be entered as the final judgment in the Action by the Court.

TERMS OF JUDGMENT

1. Defendant, all of Defendant's employees or agents, and persons acting in concert or participation with Defendant are permanently enjoined and restrained from:

(a) Using or seeking to register the TELEBAY name for any purpose, whether as a trade name, trademark, service mark, domain name, corporate name or other trade identity, except as set forth in Paragraphs 5(b) and (c) of this stipulation;

(b) Using or seeking to register for any purpose a trade name, trademark, service mark, domain name, corporate name or other trade identity that is confusingly similar to the term EBAY, including but not limited to one that combines a generic or descriptive term with the distinctive BAY suffix of the EBAY mark;

(c) Selling the TELEBAY.COM, TELEBAY.NET, TELEBAYMALL.COM and INTELEBAY.COM domain name registrations to anyone or otherwise transferring the TELEBAY.COM, TELEBAY.NET, TELEBAYMALL.COM and INTELEBAY.COM domain name registrations to anyone other than eBay;

(d) Taking any further action that infringes eBay's intellectual property rights.

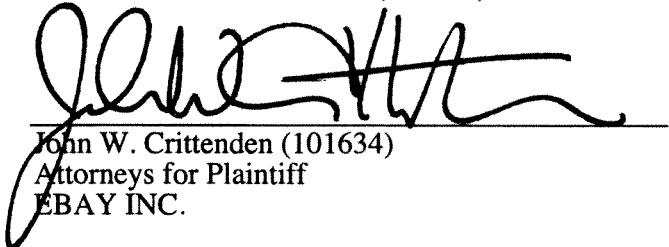
2. Each party is to bear its own costs and attorneys' fees in this matter.

3. The injunction entered pursuant to this Stipulation shall take effect immediately.

1 4. Entry of Judgment in accordance with this Stipulation shall constitute a final
2 termination of all claims and causes of action asserted in the Action.
3

4 Dated: April ___, 2008
5 *June 3, 2008*

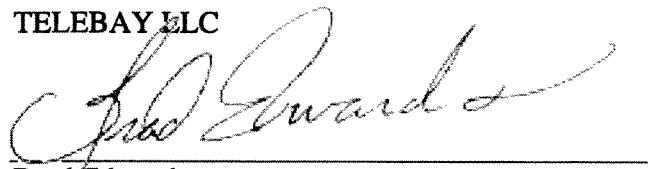
COOLEY GODWARD KRONISH LLP
JOHN W. CRITTENDEN (101634)
KATHLEEN E. TREIBER (232353)



John W. Crittenden (101634)
Attorneys for Plaintiff
EBAY INC.

10 Dated: April ___, 2008
11 June 3, 2008

TELEBAY LLC



Brad Edwards
CEO of Defendant
TELEBAY LLC

16 **FINAL JUDGMENT AND PERMANENT INJUNCTION**

17 The Court has reviewed and accepted the Stipulation for Judgment and Permanent
18 Injunction ("Stipulation") as a proper disposition of this matter. Therefore,

19 IT IS ORDERED that the Clerk of this Court enter Judgment in this matter in favor of
20 plaintiff eBay Inc. and against defendant Telebay LLC, according to the provisions of Rule 58 of
21 the Federal Rules of Civil Procedure, and in accordance with the terms of this Stipulation.
22 Judgment shall be so entered forthwith.

24 Dated: July 18, 2008

